G.R.S. 57.]

Letter Regd — Jan 7 14 of 03
Courts & Notices 88 of 190

Later references: Sessions 14 of this file

File No. 5 of 09

Serial Nos. 1—

(P-112)

1909

GENERAL AND REVENUE SECRETARIAT.

(Legislation)

Small Causes Courts Regulation

Part A.: Manuscript
for Printing

Serial Nos. 1—14

Contents

Regd

Letter No. 3784 dated the 7th December 1908
to the Registrar of the Chief Court of Upper Burma.

Requests him to obtain & forward to
this office the opinion of the Judges of the Chief Court
on the Bill to Consolidate and amend the laws
relating to the Courts of Small Causes forwarded
with [illegible] No. 1116 dated the 6th [illegible]

GPB—5,000—20-8-06.

2 From the Registrar of the ~~Supt~~ Court of Mysore
No. 6690/361 dated the 11th June 1909
States that the opinion of the Chief Courts will be forwarded as soon as Mr Bruce returns from leave

3. From the same No. 356/22 of the 23rd July 1909
Forwards the opinion of the Judges

4 To the Same No. 3614 dated 25th August 1909
Forwards for consideration of the Judges of the Chief Court ~~and for that being provided with their opinion certain suggestions~~ the suggestions made for incorporation into the Bill of the provisions relating to ~~trial~~ by Composite Courts and transferring based on the provisions of the English County Courts Act and requests him to favour first with the opinion of the Judges thereon

5. From the same No. 1085/52 of 28th August 1909
Forwards the opinion of the Judges on the above suggestions

6 To the D.O. No. 687 dated the 15th February 1909
From Mr Resident in Mysore
States that it is proposed to introduce into the Bill provisions relating to transferring and trial by Composite Courts on the lines of the provisions in the County Courts Act, England

7. D.O. Letter No. 1382 dated the 5th March 1910
From Major Jeffrey, Asst Resident
States that the experiment is worth trial and suggests that special mention of this ~~and~~ should be made in the Statement of objects & reasons

8. Letter No. 1181 dated the 5th January 1911
from the Secretary Govt. Genl & Law Depts
to the Resident in Mysore
Forwards a Copy of the Bill as finally
passed by the Legislative Council and
requests that the sanction of the Government
of India may be obtained to its being passed
into law

9. Letter No. 1295 dated the 28th Febr 1911
from the same.
States that His Excellency in Council
accords his assent to the Bill with the
usual reservation above.

10 D.o. Letter No. 1296 dated the 28th Febr 1911
from the same
Marks certain observations regarding
the provision made to trial by Composite
Court

11 Order No. J 3265 dated the 20th June 1911
to the Compiler Mysore Gazette.
Directs the publication of the Bill as
Regulation No. VIII of 1911

12. To the Resident in Mysore No. 1111 dated
the 4th July 1911.
Forwards copies of the same

13. ~~D.o. dated the 22nd June 1911 from the Resident,~~
~~Mysore. Dist Supt. Police, Mysore~~
~~Forwards a Memo of his views regard~~
~~the Penal provisions contained in Sections~~

Para 8 of the Regulations

IC No 14 ~~Do Form No 2. M~~

D.O. dated the 25th August 1911 from the
D.M. Varanasi to the, Lahore No

forwards a memo of his views
on the above provisions.

C.290
19.4.

G.R.S.11] 1900—10

GENERAL AND REVENUE SECRETARIAT

(Legislation

NOTES.

File No. 9—09.

FILE HEADING.

Small Cause Courts Regulation

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

GPB—30,000—3-4-07.

Memo

The characteristic feature of the Draft Regulation are its (1) Simplicity and (2) clearness. In these respects it is an improvement both on the Act of 1863 and the late British Indian Act of 1887. In the latter such Suits cognizable by a Small Cause Court are to be ascertained by a rather laborious process of exclusion. In the Draft Regulation on the other hand, we can say at once by a reference to the Schedule what are all the Suits falling within the jurisdiction of a Small Cause Court.

Another great convenience is in the power proposed to be vested in the Local Govt to alter or add to the Schedule from time to time in the light of actual experience. The cumbrous and not always available process of moving the legislative

(2) The next point for remark is the "finality" given to judgments of Small Cause Courts

The Late Chief Judge Mr Ramachandra Iyer and the Law association ask for powers to the Chief Court to revise decision on questions of fact also. This suggestion is acquiesced in, but not without hesitation by Mr Staley. But in this case we would virtually be surrendering away the most vital principle embodied in the Bill. With due respect I fail to see what real difference there will be between an original suit and a Small Cause one if an appeal on facts is to be given. We have a Bar daily growing in intelligence and numbers and they would insist — and the Judges would be compelled to listen to them — that as the decisions are liable to be upset even on the appreciation of evidence, depositions of witnesses should be taken down at some length. In fact Mr Ramachandra Iyer has actually suggested that Small Cause Judges should note down the

demeanour of witnesses
just as original judges.
The Evils of protracted
litigation would remain
and the object of a Small
Cause trial viz Cheap
and speedy disposal of
petty Suits would be
frustrated

Neither is there much
virtue in the Several to
Expedients suggested dis-
-courage the right of appe
Imposition of heavy Court
fees (as in the Case of origina
appeals) would not altogether
meet the Situation. We
know how parties, Otherwise
insolvent, manage to
file appeals in original Ca
paying heavy Court fees,
though they know that the
is absolutely no chance
of success in the Appellate
Court. Their chief objec
is to annoy and defeat
the successful party
and this they succeed
in doing in many Cases.

The Suggestion under
Consideration is based
on the assumption that
our Judiciary is liable to
Erring in its decisions
But Can any System
be devised which would
render Errors impossible
Is not an appellate Court
liable to Err on questions

Effect at least as much as the original Courts ~~Do not think so~~ It seems As to the whole better to provide for cheap and Speedy disposal of Cases, even at the risk of liability for Errors in some of them, than to allow petty Cases to be dragged on, at heavy cost, for indefinite periods. The System is already in vogue in British India and it has given rise to no discontent. I would therefore respectfully (33) submit that the draft Regulation Should remain as it is in this respect.

(3) Mr Ramachandra Iyer Suggests that in Suits on hypothecation bonds where relief is asked for both against the person and the immoveable property of the defendant must be made Cognizable by Small Cause Courts. His argument is that in Such cases the Suit is virtually very Similar to an ordinary Small Cause Suit on a bond and that the mere fact that relief against immoveable property is asked for Should not make any difference in the matter So long as title is not disputed.

He quotes as an instance the provisions of the Presidency Small Cause Courts Act where Suits for the recovery of immoveable property under certain conditions are made cognisable by the Small Cause Courts.

The Law Association makes exactly the opposite criticism, saying that clause 1 of the Schedule may include Suits on hypothecation bonds (of immoveables) and that this class of Suits ought to be expressly excluded. I am inclined to think that this view may not be accepted. For one thing, to adopt Mr Ramachandra Ayyar's suggestion would be to change the practice existing here as well as in B. India for a very long time without any adequate reason, as pointed out by the Law Association. Again there is much force in the criticism of that body that collusive Suits with a view to create Evidence of title would be encouraged.

Our Judiciary Right values his holding immensely — in fact much more than its intrinsic money value would justify. It would hardly

6

7

be safe to ~~to~~ advise its stability

W.R. Iyer's allusion to the provisions of the Presidency Small Cause Courts Act is hardly applicable here. They refer to ~~Suits to~~ recover ~~of~~ possession in certain cases only (as for instance when land has been let on rent or license) and are of the nature of ~~the nature of~~ possessory Suits provided for under Sec 9 of the Specific Relief Act.

I am not sure ~~*~~ but I venture to guess that these provisions were ~~pr~~ incorporated in the Presidency Small Cause Courts Act because except the High Court there was then no other Court in the Presidency Towns which could give relief in those cases. It was probably thought inadvisable to ~~to~~ enable the High Court in its original jurisdiction with Such Summary Suits. Lately a City Civil Court has been established in Madras and I don't very much whether the above provisions would have found a place in the Presidency Small Cause Courts Act

(I have not ~~not~~ had time to study the literature on the subject)

Court was then in existence
Therefore think
it safe not to complicate
matters by letting in such
class of suits.

Shiva Nath

I have appended on a
separate sheet a
few minor alterations
or amendments, which
in my humble opinion
are worthy of consideration

SN

30.1.09

8

G.R.S. 13]

10

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Extract from Assistant Secretary's note sheet in which the several Bills stood, about the 3rd April 1908:—

Copy portion VII. (7) The Small Cause Courts Bell

at once see this separately. I think the Ch. Ct is sending up some new proposals about this draft.

This has been published in the Gazette under the orders of the Dewan. It is understood that Mr Chandrasekhara Iyer

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—45,000—19-5-08.

Ide Courts file No. 153-08

17/4

But perhaps the Secretary may like to speak to taking it up, in which case I shall have some relief. (The understanding is that the Secretary shall take up Bills relating to the Revenue portfolio)

will take charge of it at the Council after next meeting, when it will have to be considered and referred to a Select Committee

The Residency have intimated privately the Bill "

Is this usual? I am not full touch with the procedure? Does it require Residency assent before introduction of a Bill? Rather, within what time after the date of the Act will it be necessary to get the Governor's assent?

10

G.R.S. 13]

Routine Notes.

[To be used only for notes requisitions, etc., not intended for permanent record.]

93

1 Legal Remembrancer
on the Offg Secretary
Small Cause Courts Bill:—

"Let me see this paper
I think the Hon'ble Court is send
up some new proposals
about this Bill."

H.H.W. 19/4/09

1 1

Send with a Copy of the Bill
and of the Collection of printed papers on the
subject. The Offg has not received
Bill nor any new proposals from the Chief Ct

19/4/09 SN 20/4/09

20/4/09

2

3 Please send with this a
Copy of the latest Sm. C. Ct
Act of Br. India. What is
this draft based on? I
should like to see that also.

H.H.W.

20/4/09

Legal Remembrancer

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

P.—45,000—10-5-08

G.R.S. 13

12

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

4. Our draft is based on the British Indian Act, but with important modifications — Especially in the schedule

Please put the books asked for in the Library

21/4

21/4

21/4

5. Lord Mollo a Copy of the Provincial Companies Act of 1887, which seems to be the latest Act of the Govt of India on the subject & on which our Draft Bill is based

24/4/08

27/4

17/5 1. 2nd Comptroller

12

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

1/5

GPB—45,000—19-5-08

Serial No.

5 The Chief Court was thinking of sending a criticism of this bill just before I left. I am not sure if the matter has not been lost sight of on account of the vacation. I think we may as well have their criticisms before proceeding further.

The Regulation is mainly intended for separate Small Cause Court. It is by no means clear that there is any crying need for such a Court in this city. No other place needs it in the State. Unless we are prepared to establish such a Court, it is not necessary to have the bill on these lines. We should so frame it as to be applicable to ordinary Courts exercising Small Cause jurisdiction as at present. On the whole, I should prefer the latter course. Please submit to the Dewan

14

GPB—50,000—13-5-08

G. R. S. 12]
General and Revenue Secretariat.

File No. 5 of 1909-12 14

Serial No. 13

for instructions before proceeding further

A. H. Ramsay Esq

3/5/09

Subd to Revenue

628 4-5-09

Yr. The Chief Court's criticism may be invited and awaited. The Agreement (Decree) do not please

A. H. Ramsay Esq

5/6/09

Letters at the time of framing the Rules and Business for the Chief Court were sent to the Law Council for their next time

5/6/09

Law Jr. with

5/6

9. Draft not for approval

5/6/09

10. Issue

5/6/09 A. H. Ramsay Esq

1 To the Registrar, Chief Court, No. J 378 dated 7th June 09.

Requests that Govt. may be favoured with the opinion of the Chief Court, as now constituted, on the draft Bill to consolidate and amend the law relating to the Court of Small Causes in Mysore

14

NOTE—Contn. sheet

GPB—50.000—13-5-08

G. R. S. 12]
General and Revenue
Secretariat.

File No. 9 of 1909

Serial No.

Letter No.
from the Registrar of the Chief Court in Mysore - No 6670/361 D. 11th June 09.

States with reference to the above that the opinion of the Chief Court will be forwarded as soon as the Chief Judge (Mr Justice Ismay) returns from his leave on the 12th July 09.

Submitted for information.

M.T.J.N. 16.6.09

8.42) 15/6. Submitted to Dewan for perusal.

C. Sankaran Nair 15/6/09

16. In the meanwhile, the other proposals I have newly made in this connection may be reduced to shape & submitted to the Dewan. If they are provisionally approved, we may call for the Chief Court's opinion on them also.

H. Krishna Iyengar 16/6/09

Legn 16/6

Submitted to Asstt Secretary

M.T.J.N. 18.6.09

16. To be submitted to Dewan - Noted on the other file - Linked

17/7/09

NOTE—Contn. sheet

GPB—50,000—13-5-08

From No: 1328

Pol (434)

THE RESIDENT MYSORE

BANGALORE.

Dated the 20th March 1909.

From T. Copeland, 1st Asst Resident in Mysore

To

The Hon'ble Rao Bahadur V. P. Madhava Rao, C.S.I.

Dear Sir,

In continuation of my D.O. letter 1782/20.3.09

I am desired to state, that the Resident sees no prima facie objection to the Mysore Small Cause Courts Bill ---- being placed before the Legislative Council.

Print this at the beginning of the correspondence

Enclosure Serial No. D

Yours sincerely

T. Copeland

V. P. Madhava Rao, Esq., C.I.E.,

Dewan of Mysore.

Separately Submitted in connection with the Local Boards Amendment Legislation -

Serial No.

12 Kiwali County Court Equitable

Sections from County Courts Act
1888

S. 93. (Non-suiting & fresh t

S. 97. (Trial by jury when
parties require it)

S. 102 Jurors & their number

S. 103 Assessors.

S. 120 Costs on w
allowed —
(may be extended

~~S. 122~~ Revision

S. 14. It is desirable that all small
cause Courts including those under
the Civil Ct Regns should be provided
by the new enactment. So a
suit may be added to S. 16 of
the Civil Ct Regns.

Such Judge or Munsif shall then
~~shall be deemed to be a Judge of the~~

NOTE—Contn. sheet.

GPB—50,000—13-5-08

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 9 of 1909–10

Serial No.

on the trial of such case, exercise the same powers and follow the same procedure as if he had been appointed a judge of a Small Causes Court under S. 6 of the Small Causes Cts Regn". or

"Such Court shall thereon

" The Court of such a judge or Munsif shall thereupon be deemed to be a Court of Small Causes established under Regn of said: the provns of the said Regn shall, all as far as they apply, be applicable to such Court in respect of Small Cause suits.

Draft Regulation S. 10

Perhaps we may abandon the older form of mentioning exceptions following the Pr. Code Section. I believe the present Ch. Judge is opposed to this innovation. The mention of exceptions is followed in the Sup. County Cts

any. Views of the Govt received from the bb Court

Secs 5 6 7 8

17. S. 16.5: Add. or that in such case no evidence has been illegally admitted or rejected"

compare Court Regn S. of C. P. C. (new Code)

Note—Contn sheet.

No change from the old Section 622

GPB—50,000—18-5-08

1 C. L. S. 120. County Cts Act)

Serial No.

N. The following may be added after S. 14 (on the analogy of the English County Cts Act) provisions already referred to

(A.) In every case in which satisfactory proof shall not be given entitling either the Plff or the defd to costs, a Court of Requests shall have power to nonsuit the Plff; the Judge shall also have power if he thinks just to order a new trial to be had on such terms as he shall think reasonable, and in the meantime to stay proceedings.

(B.) A Plaintiff who has been non-suited under the foregoing Section may subject to the laws of Limitation, bring a fresh suit on the same cause of action

(C) In all suits where the amount claimed shall exceed fifty Rupees, it shall be lawful for the Plff or defendant to require

To County Cts Act

Limit Negs—Serial 1

Note—Contn. sheet.

2 yes. There is a limit in the County Courts Act viz 5£

GPB—50.000—13-5-08

Serial No.

the suit to be tried by a ~~Magistrate~~ Composite Court, on his depositing such Costs and furnishing such security, and giving such notice as may be determined by the Court in accordance with rules framed on this behalf by the Chief Court.

(D.) When such application has been made and allowed, the ~~case~~ shall be heard by a Court composed of the ~~judge of the~~ Court in which the suit has been instituted, another ~~Civil~~ Judge of a Civil Court not superior in rank to such Judge ~~or~~ (where there is no such Judge present at the place) a Magistrate to be deputed by the ~~Magistrate~~ of the District and by two ~~one~~ jurors named by each of the parties.

19

(E.) The judgment of the Court shall be according to the opinion of a majority of the Court, the Judge of the Small Cause Court in which the suit has been filed

→ The Judge of the Court in which the suit has been filed

NOTE—Contn. sheet.

GPB—50.000—13-5-08

G.R.S. 12]
General and Revenue Secretariat.

Legs File No. 9 of 1909—10. (20

Serial No.

shall ~~have~~ preside at the trial, and shall have a Casting Vote whenever the members are equally divided in opinion; and prot shall be delivered acc to the opinion of the majority of the members of the Court

Comp

Pl. The Asst Sec Leg. Dept will get these incorporated ~~in~~ in the Regn. If necessary I shall be glad to discuss these provns.

H.H.W. 19/6/09

see Mr Matthews

19/6

Submitted to Asst Secretary

18.6.09 18/6

20

The file is submitted to the Dewan (as directed by the 2nd Councillor) for favour of orders as to whether the opinion of the Chief Court may

NOTE—Contn. sheet.

GPB—50.000—18-5-08

G.R. S. 121

General and Revenue Secretariat.

Loeps File No. 9 of 1909—10.

Serial No.	
	be invited on the additions recorded above.
	~~It is~~ The proposals are based on the English County Courts Act
	1601/13.7.09 13/7/09

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

3. Letter No. 356/228 dtd the 23rd July 09
from the Registrar of the Chief Ct.
forwards a memo Cantai
the views of the judges of the C
Court as at present Constit
Court & also
in regard to the
Cause Courts Bill.

2nd Secretary's remarks:-
Please submit returns
Early & R.S.C. 24/7/09"
submitted with the returns
24/7/09 SN 26/7/09

2nd The main Criticism
of the Chief Court is dir
mainly to the manner
Enumerating le
of a Small Cause nat
adopted in the Sched
to the draft Regulation
But On appeal from
alone a positive Clas
is to be prepared to be
by Exclusion" adopted
the B. Indian Act. The
change in the draft ong
on a suggestion of Mr Ki
Chandavarkar, the Ch
Under and has recen

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—45,000—19-5-08

(23

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

2 of Act II 7 & 8 Geo V c 15 Part III.

3 to 20

p. 3. of Part I 4 Geo V

p. 4 of Part I & II

23

Best (late Chief Judge) and
of Mr Staley. Mr Rangaswa
Iyengar has also approved
of it as also Mr Srinivasa
Iyengar as Councillor
Even the Bangalore Lead
Association ~~remarks~~
~~that~~ welcomes the mea
— and particularly the
departure made in it fro
the Indian Act in the
attempt to specify the
cases Cognizable by the
Small Cause Courts
It is true the associa
urged some ~~criticisms~~
Criticisms in points o
detail but ~~none~~ no objec
was taken by them to th
principle of the classifica

2 It is true the
draft Reg^n has not met
these minor Criticisms —
This is because the mea
had to be introduced urgen
~~Legislature~~ and the Sta
Dewan ordered its publica
at once in the Gazette
The Select Committee w
no doubt Consider all the
criticisms urged
It is therefore Submit

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

GPB—45,000—19-5-08

Routine Notes

[To be used only for notes, requisitions, etc., not intended for permanent record.]

that the Bill may be introduced in the present form with liberty to adopt any changes that may be necessary at the 3d Reading

J C Peel

The three points urged by the Ch. Ct are, Comparatively of minor importance

24/6/07 S Hemingway.

25/6

I agree generally in the above remarks. The Bill, & the criticisms thereon, will no doubt be subjected to careful examination in Select Committee & the Chairman's letter & may in the meantime be submitted to the 2d Ct. for perusal.

K.S. Hamilton 27-7-07

26 The changes proposed by the Chief Court are of an important character & if they are to be incorporated it seems to me

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—45,000—19-5-08

F.R.S. 13]

Routine Notes

[To be used only for notes, requisitions, etc., not intended for permanent record]

bill under the last cl
of rule 9(c) as recommended
by the Select Committee with these alterations.
Dr. Ilbert
Drafts as revised
suggested by the Secretary
I have no objection.
H. L. Hudson 29/7/09

29/7/09

29/7/09 My suggestion was intended
merely to save time. I have
nothing to object to the
Bill being withdrawn as
recommended by the
Select Committee.
C. Ilbert 30/7/09

~~Bill was not put down for Friday~~
~~Mr. Speaker ruled that the~~
~~Bill could not be proceeded with~~
~~Mr. Chancellor~~

N B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

This was previously shown to Mr. Speaker
Mr. Speaker
Mr. Chancellor

1062
30/7/09

30/7/09

Colonial Secretary's Office
27/7/09 Registered

Despatch No 26

28/7/09 The opinion of the Chief Court may be inserted as proposed

30 Dec 1.8.09

29 (1) The Rules of Court may be amended from time to time at meetings for the purpose of withdrawing the Bill already published in the Gazette may be cancelled later on

(2) When the opinion of the Chief Court on certain additions proposed by the Second Commissioner (based on the English County Courts Act) is received, that file together with these papers should be circulated to Council & the whole question brought before a Council meeting when each section may be gone through in detail

K. MacCallum
1-8-09

Please move the Hon the Colonial Secretary accordingly. Let me see the file when it is finally ready.

K.S. Hamilton-Grierson
2/8/09

Under Secretary
Chief Clerk
Clerk in charge
Clerk

26.

30.
Seen

Where is the file about alterations suggested by me?

A.K. Wainwright
2/8/09

V. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

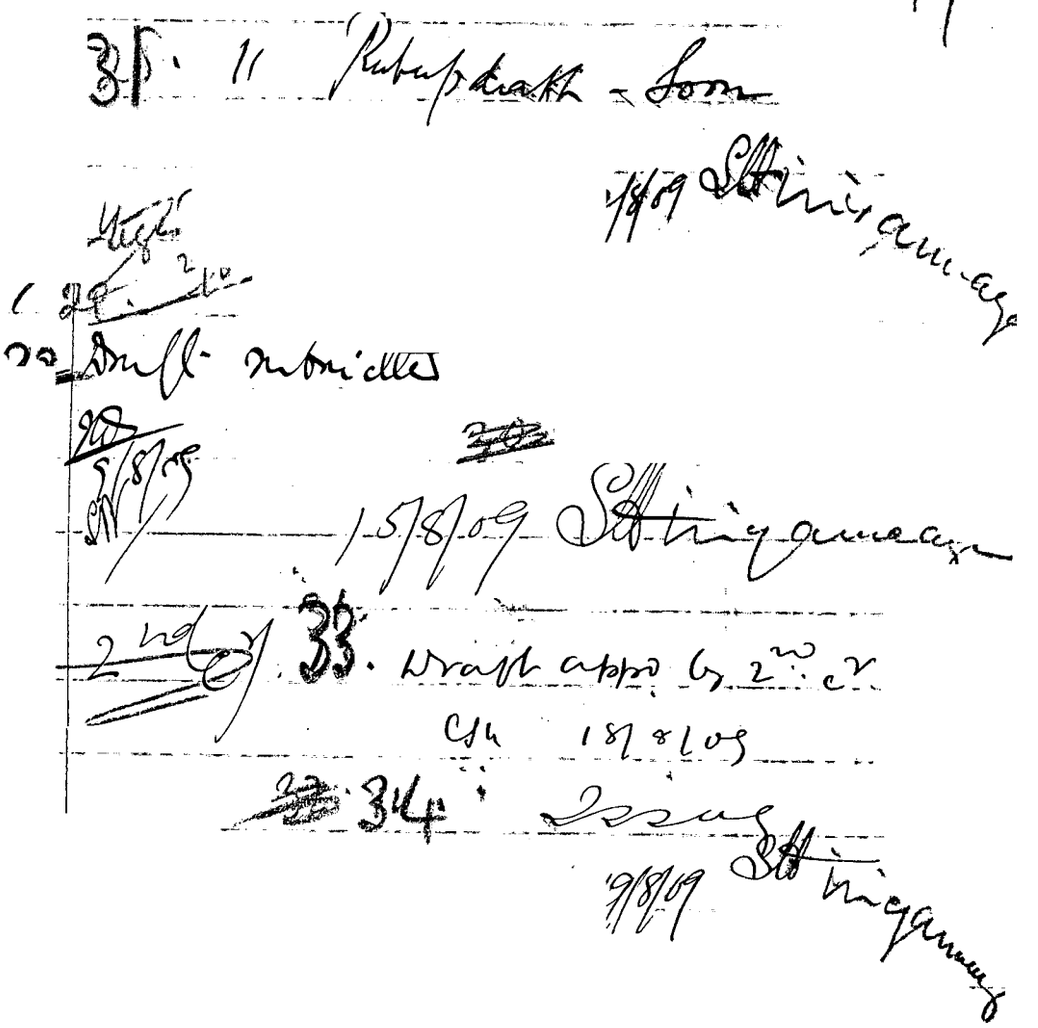
Submitted.
The file
Nott
27.8.09 SW

GPB—45,000—19.5.08

Enquiry which is the file
SW

G. R. S. 12]
General and Revenue
Secretariat.

File No. of 190



NOTE—Contn sheet.

GPB—50 000—17-3-07

27

NOTE—Contn. sheet

GPB—55,000—27-4-09

Serial No. 4

To the Registrar of the Chief Court in Mysore, Bangalore. No. 9. 614 dy 25th Aug. 09.

Requests him to obtain the opinion of the Chief Court on certain suggestions brought forward for consideration in connection with the Small Cause Courts Regulation.

8 From the Registrar, Chief Court, Mysore Bangalore, No. 1015/52 dy 28.8.09

Forwards the views of the Judges of the Chief Court on the suggestions referred to above.

33 Submitted for order

M.J. Sh 31.8.09 31.8.09

35. The Chief Court do not approve of the suggestions made.

The Dewan has ordered (please Leg. 9 linked file) that the file should be circulated to Councillors and that the draft Regulation should be gone through Section by Section at a meeting of the Executive Council.

6/9/09 Secretary

Sec'y

18

1661

Serial No.

36 This may be done after repeal of the 2 D R

11 Sept

38 11/9/09

~~The Chief Court has delayed the proceedings in this case for a long time. It would have been better if they had given their decision promptly.~~

37 The Chief Court might perhaps have bestowed some more detailed consideration on the new proposal. I have added some notes in pencil on the reply.

38 The Regulation may be taken up as ordered by the Dewan

13/9/09

39 Circulate

38 14/9/09

3.06

256/20.9.09

41 Dewan's order

Please bring up at Council time

21-9-09

NOTE—Contn. sheet

(P.T.O.)

Note for meeting

4050
19-1-10

Extract from the Proceedings of the 244 Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 10th January 1910

9.132. XI. Subject.-(Clause 11 of Schedule).

Draft Small Cause Court Regulation.

OPINION.

(1) In the draft Regulation now before the Legislative Council the following new provisions may be inserted in their proper places -

"Section 14 A. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a court of Small Causes shall have power to non-suit the plaintiff; Provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action."

"14 B. In all suits where the amount claimed shall exceed one hundred rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court in accordance with rules to be framed in this behalf by the Chief Court."

30

"When such an application has been made and allowed, the case shall be heard by a court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior

GPB—300—29-4-09

in rank to such judge, or, where there is no such judge present at the place, a magistrate to be deputed by the magistrate of the district, and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite Court."

Flag W

Flag A

(7) The question whether Section 10 of the draft Regulation should remain as it is or whether it should follow the form of section 15 of the Provincial Small Cause Courts Act IX of 1887 applicable to British India, may be left to the decision of the Legislative Council.

(Sd) T. Anandarao

Dewan of Mysore

C.S. Balasundaram Ayr
Offg Secy to Govt

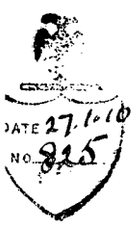
31

32

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Draft Small Cause Court Regulation.



VI
31/1.2.10

Order.

Approved
~~KRW~~
31/1/10

Secy
Please Wakeen
Finance Dept
Hello
12/2/10
III
Cash
2/2/10
SD
2/2/10

33

2/2/10

2/2/10

G. R. S. 12]
General and Revenue Secretariat.

File No. 1 of 1910

Serial No. 45

Directs in person draft of no. 15 this Residency is submitted forwarding a copy of the Bill and notifying them of the amendment now made to the Bill.

2/11/10 46 The provisions now ordered to be included necessitate a further reference to the Res.t A draft has accordingly been prepared.

47 The original Bill was ordered to be published under Rule 32 of the Council Rules: The additions now made may appear as addenda to the draft Bill already published in the Gazette This will save us some time as otherwise the original Bill will have to be withdrawn and leave taken to introduce the Bill as amended

48 draft may be approved

Submitting accordingly

Secretary

Necessary under Rule 34 of the Council Rules

9.2.10

Received the 2nd

4528 14.2.10 50

Amended 49 H.L. Harvey Under Sec.

15/2/10 11/2/10

51

The fair copy of the no. to Resident is also submitted herewith for despatch from the Secretariat with a corrected copy of the bill with the addition & insertion

15/2/10

52

Issue as above 15.2.10

NOTE.—Cover sheet.

GPB—65,000—27.4.09

35

Serial No. 6

~~2 Jan~~ o dated the 15th Feby 1910, Do 687 forwards a Copy of the addendum ~~to the despatch~~ & draft of an addendum to be No 187/10. published in the Gazette is also ~~with~~ to appear

SW 15-2-10 The draft will be published in the Gazette a fortnight hence ~~please take action accordingly~~ by which time we may hope to hear from the Resy

~~Secy~~

Secy

Letters ~~submitted~~ submitted on or before the 15th of March by which time we may hear from the Resy.

Returned stamped

21/2/10. SW Jayaraman

7 Do No 1382 of the 5th March 1910 from Major Grey. Addl Asst Resident.

Approves of the addition proposed to the Bill in the nature of the Constitution of Composite Courts and states that the Resident would suggest a special mention being made of this provision in the Statement of Objects and Reasons.

35 Sent with the draft addendum to the Bill containing also addition to the Statement

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue
Secretariat.

Leg File No. 9 of 190 9

Serial No.

of Objects & Reasons for the Bill already published. 1/

MD 7/8/10 SH 6/8/10 SH

Draft appd by the Secretary for publication in the Gazette of the 10th inst SH 8/8/10 SH

MD

5 Leg 39. The Bill was introduced at the meeting of the Legislative Council held on the 15th August 1910 when it was referred to a Select Committee for consideration and report. The report of the Committee and the Bill as amended by that body were considered at the meeting of the Legislative Council held on the 23rd November 1910 when certain clerical consequential & the addition of Schedule II were also adopted. The Bill is returned for being passed at a subsequent meeting of the Council.

The sanction of the Secretary of State has to be obtained for the Bill being passed into law. Upon such as received by the Asst Secy

MD 25 21/11/10 SH 24/11/10

NOTE—Contn. sheet.

GPB—65,000—27-4-09

G. R. S. 12]
General and Revenue
Secretariat.

File No. 5 of 1907

Serial No.

30.

30. The draft letter may be approved.

H V Wanyndham 28/12/10

Dewan

28/12/10

As the changes made are many, put in a copy in which the deleted portions are all cancelled in red ink

947
24-12-10
64.

6. Draft approved by Dewan.

C&F
31/12/10

23/12/10

32 Issue Malakand dsc 7.

31/1/11

Attended to 29/12/10

31/1/11

27

8 No Pol. 619 dated 5/1/11 to the F. A. Resident

fwd 9/1/11

Forwarding a copy of the Small Cause Courts Bill and requesting the sanction of the Govt of India for its being passed into law

38

9 From the Secretary to the Govt of India dated 28th Feb 1911 Communicates the sanction of the Govt of India for passing the Small Cause Courts

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

Bill with the usual reservation

5 ~~No~~ D. O. No 296 dated 28/2/11 (SP)

from the Resident to the Dewan

~~Also~~ observes that it has been suggested that the provision as to "composite courts" in sec. 8 of the bill are extremely complicated and that whereas the jurors in the County Courts are only judges of fact the two jurors of the composite court under the Regn are judges of both fact and law which is anomalous.

6 B. Submitted for orders with the Volume of Mr Chitty's Statutes containing the County Courts Act.

BPB 25/3/11

JM (11) 26/3/11

6 C. Subd to 2nd C.

Though there is no specific provision in the English County Courts Act confining the functions of the jury to the trial of questions of fact, it seems to be a well understood principle in English Law that they can not take part in deciding questions of law. In this view and if the suggestion of the Govt of India is to be accepted, clause 8 of the

89

NOTE—Contn. sheet.

G. R. S. 12]
General and Revenue Secretariat.

File No. 9 of 1909-10 (40

Serial No.

draft will be altered ~~Suitably~~ ~~for to give effect to the~~ and Subd for approval

S Hirajamaya

4/3/11

1670 2nde 65.

On points of law, ~~they~~ ~~will be the decisions~~ will I believe be open to Court reckon an revision. Please bring up this file to me personally for consideration.

To await Mr. Hirajamaya's return from leave. 12/3/11

H K Banerjee

13/3/11

Mr's Suggn Noted 25/3/11

Personally Subd

66. I do not quite see the necessity of any alteration, as on point of law the case may be taken before the Chief Court; the Judge will also have a Casting vote However in deference to the opinion expressed, we may make the alteration as proposed

1
10

NOTE— Contn. sheet

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

File No. 9 of 1909-10 (4B)

Serial No.	
	as proposed in Cl. 8 of the bill H.C. Vanyendaga
	Drawn 27/3/11.
10803	
28.3.11	67 Treatment may be 1 2/11 27/3/11 brought forward at the next meeting of the Legislative Council
	J. Amendment Bill

41

GPB—50,000—12-8-10

Small Cause Courts Bill

69. After revising the provision about the reference of suits to juries, by taking out questions of law out of their jurisdiction, it appears unnecessary to have a judge or magistrate sitting along with the judge of the Sm. C. Court. Juries in the far more important issues in Sess. Case decide facts finally without the association of a judicial officer with them. It would be a material gain in simplicity and despatch if we remove this provision. I would therefore intend no a further

43

NOTE—Contn. sheet.

GPB—55,000—27.4.09

amendment to the effect that three ~~of~~ jurors may be appointed ~~the~~ assessors to rules to be framed. The rules may for example make it that the judge, the Plff & the Deft should each nominate a person the latter two from a list previously framed - Even if a party's nominee is a partisan, the judge & his nominee are independent & the judge will have a casting vote where necessary. The form of the amendment is given in the paper annexed & if approved, it will be moved by me -

H K Wanjiru 6/4/11

144

J Dewar

G. R. S. 12]
General and Revenue Secretariat.

Leg File No. 5 of 1907 R.O.

(45)

Serial No.

70 For para 2 of Cl. 8 substitute the following

When such an application has been made and allowed, the case shall be heard by ~~a Court Composed the Judge with the aid of three~~ a Court Composed of the Judge ~~of~~ ~~in~~ before whom the suit has been ~~filed~~ instituted, and three jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

H K Wanchope

15/4/11

45

71 Note. The rules may if Considered necessary indicate that another Judge or Magistrate may be selected as a juror by the judge but it seems unnecessary to do so

H K Wanchope 58

72 Please circulate to Members of Committee

Note—Contn. sheet.

GPB—55,000—27-4-09

15/4/11

73 Seen MM Khan 15/4/11

15/4/11

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.

46

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPR—45,000—10.5.08

11140
19.4.11

Extract from the Proceedings of the 262nd Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 17th April 1911

V. Subject. - (Clause ii of Schedule).

Amendment of paras 2 and 3 of Clause 8 of the Draft Small Cause Courts Bill.

OPINION OF THE COUNCIL

The following amendments may be approved:-

i. "For para 2 of Clause 8 substitute the following:-

"When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge before whom the suit has been instituted, and three jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court".

ii. For para 3 substitute the following:-

"The Judge shall settle what are the questions of law and what the questions of fact arising in the case and he shall have the sole power to decide the questions of law. He shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion and judgment shall be delivered in accordance with the opinion of the majority of the members of the Composite Court on all questions of fact".

Sd. T. Ananda Rao,
Dewan of Mysore

"Extract"

C. Balasundaram Jr
Offg. Secretary to Govt.

GPB—300—29-4-09

G.R.S. 12]
General and Revenue Secretariat.

Leg File No. 9 of 1909-10

Serial No. 77

Bill. The Bill was placed before the legislative Council with the above amendments and was finally passed by the Council at the Meeting held on the 27th April 1911. Sanction of H.H. the Maharaja has now to be obtained for its promulgation as law. Bill with a Copy of the Bill as passed for the Dewans Signature

7/KS/25
28/4/11

SR (11)
29/4/11

48

Dewan

1/5/11

Dewan through 2nd C

SR
1/5/11

1/5/11

1502
8.5.11

SR
4/5/11

NOTE—Contn. sheet.

GPB—50,000—12-8-10

49

Submitted to His Highness.

78 In communicating the sanction of the Government of India to the Small Cause Courts Bill, the Residency said that the provisions regarding "Composite Courts" introduced in the bill (approved by His Highness in order dated 25th January 1910) "are extremely complicated" and "indicate some misapprehension of the proper functions of a jury".

(2.) In order to remedy the defects pointed out, the amendments indicated in the accompanying Council Resolution of the 17th April were moved in the Legislative Council, and the bill as thus amended has been finally passed by the Legislative Council.

49

(3.) I now solicit His Highness' early sanction to the bill being promulgated as law. It is to come into effect from the 1st July 1911.

We

9 May 11

G.R.S. 13]

(50

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

~~H. Mysore 8 inch~~ 5 Dec

C. Jan 1911

INDIAN TELEGRAPHS.

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay.

Rs.	As.

Office Stamp: CHAMARAJENDRAPET 19 JUN. 11

Handed in at (Office of Origin.)	Hour.	Minute.	Service Instructions.	Words.
Mysore 19	19	25		54

Rcvd. here at H. M.

TO

Balasundaram Esqr
General Secretary Basawangudi
Bangalore &
Small Cause Court Bill as
passed by the legislative
Council approved by His
Highness go ahead in regards
for publication in Mysore Gazette
file follows

Dewan

N. B.—The name of the Sender, if te... is written after the text.

Gulab Singh & Sons, Calcutta.—No. 55 P. O.—21-5-10—70,000 Bks.

50

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—30,000—23-2-11

G.R.S. 12]
General and Revenue Secretariat.

File No. 2 5 of 190

(57)

Serial No.

D.O. No. 2690

PRIVATE SECRETARY MYSORE

The Palace, Mysore,

19th June 1911

Rs 20391 Draft Bill is enclosed with the letter

To R.C.K. Campbell, Mr. Esq. Dewan Maharaja's Dewan

My dear Sir,

In reply to your D.O.No.2430 dated 16th June 1911 I am directed to say that His Highness gives his assent to the Small Cause Court Bill as passed by the Legislative Council.

Yours sincerely,

T.Ananda Rao, Esq.,C.I.E.,
Dewan of Mysore,
Mysore.

51

NOTE—Contn. sheet

GPB—55,000—27-4-09

(52

Record of Cases submitted for the Orders of His Highness the Maharaja

10.5.11
1989.

Subject.

Promulgation of Small Cause Courts Bill as law.

Order.

(52

81. Immediate — Let it issue to have it published in the Gazette of the 22nd inst

20/6/11

G. R. S. 12]
General and Revenue Secretariat.

Dg File No. 5 of 1910-11 (53

Serial No.

82 Draft as under the Compiler is submitted for approval.

Hd (25) SN(11)
20/6/11.

83 Secretary
20/6/11.

11

To the Compiler, Mysore Gazette. J 2669 / Legis 9-09. Dated 20/6/11.

Orders that the Bill to consolidate and amend the laws relating to courts of Small Causes in Mysore which received the assent of H.H. the Maharaja on the 19th June 1911 be published for general information as Regulation VIII of 1911.

Submitted to the Second Councillor for [illegible]

S.A. (87)
26/6/1911

26/6/11

53 84 Submitted

The spare copies have been received from the Press and have been verified. Copies have to be sent to the Residency as usual. A draft letter is herewith put up

(58) SN(11)
30/6/11 1-7-11 85 Secy

1/7/11

NOTE—Contn. sheet.

GPB—55,000—27-4-10

G. R. S. 12]
General and Revenue
Secretariat.

Legs File No. 9 of 19 09-10

Serial No.	
12	No Pol. 11 dated 4/7/11 Dr J. A. Resident. Forwards 10 copies of the Bill and requests that ~~10 Nos~~ ~~copies~~ be sent to H. H. the ~~Maharaja~~ Nizam's Govt as usual.

54

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G.R.S. 26]

File No. 9
Serial No. 1

Diary No. of letter replied to _____

General and Revenue Secretariat

(

, *the* 190 .

Date of issue

Signed by

From The Secretary to Govt, Judicial Dept.

To The Registrar of the Chief Ct of Mysore, Bangalore.

Letter No. J 3784 dated 7/6/09

I am directed to state that it has come to the knowledge of Govt that it is under the consideration of the Chief Court to send up to Govt its criticism or opinion on the draft Regulation to consolidate and amend the law relating to Small Causes in force as at present framed. As it is the intention of Govt to place this before the Legislative Council at its next sitting, I request that the Govt may be favored with the opinion or criticism of the Chief Ct on the subject, if any, as

over.

I am directed to request that the Govt may be favoured with the opinion of the Chief Court on the Draft Small Cause Bill to consolidate and amend the laws relating to the Courts of Small Causes in Mysore published in the Mysore Gazette Dt. 6th Feb 1902

A very Early reply is requested as the bill is to be placed before the Leg. Council at its next meeting

5/6/09

SUBJECT.

5/6/09

53

NOTIFICATION.

No. 246—L. C., dated 3rd March 1909.

Under Rule 32 of the Rules relating to the conduct of business of the Mysore Legislative Council, the following Bill together with a statement of objects and reasons therefor is published for general information.

By Order,
S. HIRIYANNAIYA,
Secy., Mysore Legislative Council.

A Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

(Section 1 of Act IX of 1887.)

Title, extent and commencement.

1. (1) This Regulation may be called the Mysore Small Cause Courts Regulation, 190 ".

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of 190

(Section 2, sub-section (3) of Act IX of 1887.)

2. Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Construction of references to Act XI of 1865.

(Section 3 of Act IX of 1887.)

3. Nothing in this Regulation shall be construed to affect—

Savings.

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature; or

(*c*) any local or any special law other than the Code of Civil Procedure.

(Section 4 of Act IX of 1887.)

4. In this Regulation, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Regulation, and includes any person exercising jurisdiction under this Regulation in any such Court.

Definition.

CHAPTER II

CONSTITUTION OF COURTS OF SMALL CAUSES.

(Section 5 of Act IX of 1887.)

5. (1) The Government may, by order in writing, establish a Court of Small Causes at any place in Mysore.

Establishment of Courts of Small Causes.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Government may define, and the Court may be held at such place or places within those limits as the Government may appoint.

(Sub-section (1) of section 6 of Act IX of 1887.)

6. When a Court of Small Causes has been established, the Government shall, by order in writing, appoint a Judge of the Court.

udge.

(Section 9 of Act IX of 1887.)

7. A Judge of a Court of Small Causes may be suspended or removed from office by the Government.

Suspension and removal of Judges.

New section; in substitution for section 13 of Act IX of 1887.)

8. The Government shall allow a Court of Small Causes such establishment of ministerial officers as may be necessary; and subject to any orders made by the Government in this behalf, the Judge of a Court of Small Causes may appoint the ministerial officers of the Court and may fine, suspend or dismiss them.

Ministerial officers

(Section 14 of Act IX of 1887.)

9 (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Regulation or in any other enactment for the time being in force as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

Duties of ministerial officers.

(2) The Chief Court may make rules, consistent with this Regulation and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties

as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

(New Section.)

Cognizance of suits by Courts of Small Causes.

10. All suits of the classes specified in the schedule, of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

(Section 16 of Act IX of 1887.)

Exclusive jurisdiction Courts of Small Causes.

11. Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

(Section 17 of Act IX of 1887.)

Application of the Code of Civil Procedure.

12. The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits.

(Section 22 of Act IX of 1887.)

Adjournment of cases by chief ministerial officer.

13. When the Judge of a Court of Small Causes is absent, the chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

(Section 23 of Act IX of 1887.)

Return of plaints in suits involving questions of title to immoveable property.

14. (1) Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

58

(Section 24 of Act IX of 1887.)

Appeals from certain orders of Courts of Small Causes.

15. Where an order specified in section 588, clause (29), of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

(Section 25 of Act IX of 1887.)

Revision of decrees and orders of Courts of Small Causes.

16. The Chief Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

(Section 27 of Act IX of 1887.)

Finality of decrees and orders.

17. Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

(Section 28 of Act IX of 1887.)

Subordination of Courts of Small Causes.

18. A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the Chief Court, and shall—

(*a*) keep such registers, books and accounts as the Chief Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the Chief Court or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(Section 29 of Act IX of 1887.)

Seal.

19. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government

(Section 30 of Act IX of 1887.)

Abolition of Courts of Small Causes.

20. The Government may, by order in writing, abolish a Court of Small Causes.

(Section 31 of Act IX of 1887.)

Saving of power to appoint Judge of Court of Small Causes to other office.

21. (1) Nothing in this Regulation shall be construed to prevent the Government from appointing a person who is a Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

(Section 32 of Act IX of 1887.)

Application of Regulation to Courts invested with jurisdiction of Court of Small Causes.

22. (1) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes.

(*d*) appeal from certain orders of those Courts and revision of cases by them,

and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this Regulation,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

(*Section 33 of Act IX of 1887.*)

Application of Regulation and Code to Court so invested as to two Courts.

23. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

(*Section 34 of Act IX of 1887.*)

Modification of Code as so applied.

24. Notwithstanding anything in the last two foregoing sections—

(*a*) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(*b*) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree, unless in any case the Court, by order in writing, requires them to be sent.

(*Section 35 of Act IX*

Continuance of proceedings of abolished Courts.

25. (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

(*Section 37 of Act IX of 1887.*)

Publication of certain orders.

26. All orders required by this Regulation to be made in writing by the Government shall be published in the official Gazette.

SCHEDULE.

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES.

(See section 10.)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit on a contract for work and labour;
(5) A suit on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board and lodging;
(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
(10) A suit for money paid or goods delivered at defendant's request;
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited when the total deposit does not exceed the pecuniary jurisdiction of the Court;
(13) A suit for recovery of specific moveable property pledged or deposited with the defendant, or its value.

STATEMENT OF OBJECTS AND REASONS.

The Small Cause Courts Act, XI of 1865, was never formally extended to Mysore, but owed its force to a Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, which added certain words to Rule 8 of the Rules promulgated with the earlier Notification of 27th August 1879, No. 235—I. J.

The amended Rule 8 is transcribed below, the additions being shown in italics:—

"The Chief Commissioner may invest, within such local limits as he from time to time fixes, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes *under Act No. XI of 1865 (an Act to consolidate and amend the law relating to Courts of Small Causes, etc., etc.)*, for the trial of suits cognizable by such Courts up to such amount as the Chief Commissioner may think fit, not exceeding Rs. 500, and any Munsiff with similar jurisdiction up to such amount as the Chief Commissioner may think fit, not exceeding Rs. 50

All the provisions of the said Act No. XI of 1865 shall, so far as they are consistent herewith, apply to the Court of any Subordinate Judge or Munsiff when exercising the jurisdiction with which he is so invested."

"The Chief Commissioner may, whenever he thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsiff so invested."

The whole of the substantive Notification of the 27th August 1879 was, however, repealed by Section 2 of the Mysore Civil Courts Regulation, I of 1883, since which time all investitures of judicial officers with Small Cause powers have been effected under the said Regulation, I of 1883. But the amending Notification of 28th January 1880 was not at the time expressed to be repealed; and this has led, in certain quarters, to the entertainment of doubts as to the Small Cause law in force in Mysore.

2. The object of the present measure is not only to set such doubts at rest, but also to bring the law of Mysore on the subject into line with the British Indian Law, *viz.*, the Provincial Small Cause Courts Act, IX of 1887, so far as the provisions of the latter are adapted to local requirements. It may be noted, in passing, that the Bill is not intended to supersede Section 16 of the Civil Courts Regulation. The former enables Government (among other things) to establish Courts of Small Causes pure and simple, while the latter provides for the investiture of certain classes of judicial officers with the jurisdiction of Courts of Small Causes, such jurisdiction being exercised as laid down in Clause 22 of the Bill:

3. Among the provisions which it has been considered unnecessary to incorporate in the Bill for the present are those relating to the appointment, functions, etc., of single Judges for several Courts of Small Causes, Additional Judges and Registrars.

4. Clause 8, regarding ministerial establishment, is new, and corresponds to Section 13 of Act IX of 1887, but is simpler than the latter.

5. Act IX of 1887 contains a schedule of 44 clauses, which specifies the suits excluded from the jurisdiction of Courts of Small Causes; all other suits of a civil nature which do not exceed a prescribed limit of value are made cognizable by those Courts.

The purpose of this classification is, doubtless, to restrict the jurisdiction of Small Cause Courts to petty suits not involving difficult or intricate questions of law or fact. As a matter of fact, however, several of the suits cognizable by such Courts under the Indian Act are (as shown by Mr. Justice A. Ramachandra Aiyar in his memoranda of April 1890 and May 1893), as difficult as some of those which have been excluded. Thus, actions for deceit, or negligence, or for money had and received, or for compensation for not completing a contract of sale of land, are not excluded from the schedule and yet these classes of actions *prima facie* involve as difficult questions of law and fact as the classes specified in the schedule. Again, a concrete instance may be imagined in which the same set of acts may cause injury to the *person* and to personal *property* of the plaintiff; but though the questions of fact and law involved, so far as they relate to the liability of the defendant to pay damages, may be the same in both cases, a Small Cause Court is deemed competent to adjudicate on a suit for compensation in the latter case, but not in the former. Similarly, an action for conversion, say, of a horse or jewel, though sometimes more difficult to decide than an action for libel or malicious prosecution, is yet cognizable by a Small Cause Court, while the latter is excluded from its jurisdiction.

These and other instances suggest that the classification of suits contained in the Indian Act is not quite satisfactory, and that the sphere of suits to be excluded from the cognizance of Small Cause Courts should be enlarged.

A reference to past reports on the administration of Civil Justice in Mysore shows that most of the suits filed on the Small Cause side are suits for money lent, or for goods supplied, or for wages, or for rent. All the suits which it is desirable a Small Cause Court should be empowered to try may easily be grouped under a few general heads. It has therefore appeared to be the best course to specify these groups in a new schedule in place of the one appended to the Indian Act and to enact that suits not so specified shall not be entertained by Small Cause Courts. This has accordingly been done in Clause 10 of the Bill, which also empowers Government to add to or vary the schedule by a notification published in the Gazette.

It may be added that the Chief Court, whose opinion was invited on the measure, considers that the new provision is a decided improvement on the corresponding provision of the Indian Act, and that the classification of suits cognizable by Courts of Small Causes as given in the Bill is at once simple and clear.

No. 6670/361

J 8769 Served 25/6/19

10

Bangalore 11th June 19

From,

The Registrar of the
Chief Court of Mysore;

To,

The Secretary to Govt:
General and Revenue Depts

Sir,

S No 2

I am directed to acknowled
The receipt of your letter No 3284
dated the 7th Instant, and to state
that the opinion of the Chief Court
will be forwarded as soon as the Chief
Judge (Mr: Justice Ismay) returns on the
12th Proximo.

I have the honor to be
Sir,
Your most obedient Servan

63

Bangalore 23rd July 1909

From

V. A. Rajaratna Mudaliar Esquire

Registrar, Chief Court of Mysore

To,

K. S. Chandrasekhara Aiyar Esq., B.A., B.

Secretary to Government,

General and Revenue Departments

Sir,

Adverting to your letter No: J. S. No 3 3784 dated the 7th June 1909, I am directed to forward the enclosed note embodying the views of the Chief Court as now constituted on the draft Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore, together with a postscript by Mr: Justice Krishna Rao

I have the honor to be,

Sir

Your most obedient servant

Registrar

Note

The main distinction between the Bill now opened for opinion and the Act at present in force in British India lies in the fact that in the Bill an attempt has been made comprehensively to define Small Cause Court jurisdiction whilst in the Act suits excluded from such jurisdiction are scheduled in detail.

When the Bill was originally circulated in 1903 the Bangalore Law Association whilst marking with great pleasure the departure made in the Bill from the British Indian Act offered some severe criticism upon the attempt to classify the suits cognizable by Small Cause Courts. In the Schedule appended to the Bill as now drafted, no endeavour has been made to meet these criticisms.

The Judges of the Court are apprehensive that the principle adopted in the Bill will lead to considerable difficulty - A few of these

(13)

difficulties are foreshadowed by the Bangalore Bar Association and the criticism offered by the association is in no way exhaustive - The Judges desire to point out that the British Indian Act has worked smoothly for more than 20 years and that such difficulties as have from time to time arisen are now settled by case law They are not aware in what respect the circumstances of the Mysore State differ materially from the circumstances of many parts of British India, and they feel constrained to express a doubt as to whether the Bill as now drafted will be found to be any improvement upon Act XI of 1865 Their recommendation is that the principle underlying Act IX of 1887 be adhered to with such alteration in the Schedule as may be found necessary

2. Other matters which appear to call for remarks are noted

below –

Clause 2. (1) If Act XI of 1865 is not in force
in The Mysore State it follows that
all orders hitherto made under Section
16 of the Myso-- Civil Courts Regulation
H N 1883 have been ultra vires. But th
Pl 1 appreciability of the Act has been af-
firmed in numerous decisions of this
Court, and it is therefore necessary that
it should be formally repealed
Sub-Clause (1) would run thus
'Act XI of 1865 is hereby rep--led'

8 (2) The first part of this Clause
appears to be unnecessary and the last
part is superfluous (Vide Section 16
of the General Clauses Regulation 1899)
H N 8 I The draft might run thus 'Subject
to any orders made by Government
66 in this behalf, the ministerial officers
of a Court of Small Causes shall be
appointed by the Judge of the Court

(3) The objections to this clause have been already stated

(4) It is not understood why the words or other title which such a Court cannot finally determine' which occur in Section 23, Sub Section (1) of Act IX of 1887 have been omitted from this Sub Clause

5 after 'cases' insert decided'.

Clause 14 Sub Clause (1)

Clause 22 Sub Clause (1)(d)

Postscript by Mr: Justice Krishnadas

I wish to add that during the long period of 15 years I was the District Judge of the Civil and Military Station, invested with the jurisdiction of a Small Cause Court to try suits upto 500 Rs in value, I found little or no difficulty in working Act IX of 1887 which has been made applicable to that Station - further I do see why our Munsiffs and

18

G.R.S. 26]

Legis File No. 9-09

Serial No. 11

Diary No. of letter replied to J3469

Letter No. J 6148 25/8/09

from the Secretary to the Govt Kandy

Gen. Depts

General and Revenue Secretariat

( )

To The Registrar

Chief Ct of Negombo, Bangalla

the 190 .

Sir,

Date of issue 25th August 09

I Adverting to your letter No. S 3464

Signed by Wm. S. Wijeyamanaya.

3516/228 of the 22nd ultimo, forwarding the views of the judges of the Chief Ct as at present constituted on the draft Small Cause Courts Regulation as published under Notification No. 246/Ke of the 3rd March last, I am directed to forward herewith the following suggestions which have been brought forward for consideration in regard to the said Regulation based on the Local Courts Acts of England and to request

over.

68

Connection with

They are based on certain provisions of the English County Courts Act and of an Enabling character.

Wants to request etc

SUBJECT.

at the [illegible] opinion of the Chief Ch. may be obtained thereon & forwarded to [illegible]:—

1. Clause 16. The words "or that in such case no evidence has been illegally admitted or rejected" be inserted after the words "according to law" occurring in this clause. (Cf. Sec 120 (Cr. Code) Act)

2. The following addition be made after Clause 14 on the analogy of Secs 53 to 56 and 103 of the said Act:—

14A. "In every case in which satisfactory proof shall not be given affecting either the Plaintiff or the Defendant to judgment, a Court of Small Causes shall have power to nonsuit the Plaintiff. The Judge shall also have power, if he thinks fit, to order a new trial to be had on such terms as

List of enclosures.

Copied by

Examined by

Legis 9-09

From

The Registrar,
Chief Court of Mysore,
Bangalore

To

The Secretary to Government,
Genl & Rev. Departments

Sir,

With reference to your letter No. J 4 dated the 25th instant, I am directed to forward the accompanying note embodying the views of the Judges of the Chief Court on the suggestions now put forward in connection with the draft Small Cause Courts Regulation.

I have the honour to be.

Sir,

Your most obedient Servant,

Registrar.

(23

Note

Clause 16. The addition of the proposed words can do no good and may do some harm. The present clause as interpreted by case law confers ample discretion on the Chief Court to interfere when it appears that any substantial injustice has resulted to a party from any material misapplication or misapprension of ... or from any material error in procedure. The addition of the words now proposed may suggest the inference that interference in matters of adjective law is intended to be limited to cases in which evidence has been illegally admitted or excluded.

The object of the addition is to make interference permissible to some extent on gross error on facts. A more suitable wording may be substituted. Addition unnecessary

71

Clause 14 A. The power to withdraw a suit which is conferred by section 373 of the Civil Procedure Code has always been held to be an efficient equivalent of the English non-suit. If the present proposals are given effect to it is feared that in the hands of some Judges a suit will never be terminated

1/1/1C
power to withdraw with liberty to refile is a non-suit no doubt. If that existing power has not been indiscriminately used, why should it be feared to have that effect?
The two clauses in 14 A are independent & may be separately considered on their merits

Clause 14 B. The proposals in connection with this clause do not appear to be based on the analogy of any known law. There is nothing

There is an analogous provision in English law. This may be discussed. It is no doubt novel but it is not necessarily impracticable or undesirable merely on that account.

nothing to commend and much to condemn. The ultimate result of any suit would not be effected, because each so-called juror would side with his respective party and the judge would outvote the Magistrate. Durations which are now far too high would increase considerably. It would also be necessary to appoint extra Munsiffs for Bangalore and Mysore where Small Cause Courts will presumably be established. The existing Munsiffs at these places have at present more work than they can get through, and cannot possibly spare time for the extraneous burden now sought to be imposed upon them.

Registrar.

G.R.S. 26]

File No. 9
Serial No. 7

Diary No. of letter replied to

No. 687 & 15 Feb 10

Ltr Do from the Dr Commr Mr Bangalore

General and Revenue Secretariat

( )

, *the* 190

To

Bangalore
5-7-10.

Date of issue

Signed by

S. No 6

Draft to
Mr Copeland's letter No. 1783
d/ 20th March 1909 re the
Small Cause Courts Bill,
I write to say that the
Dewan have on further
Consideration decided to
introduce into the said
Bill Certain provisions regarding
Non Suits and trials of Suits
by Composite Courts i.e. Courts
Composed of Judges and Jury
These provisions are taken

over.

12

14/7/10

SUBJECT.

provided English County Courts
Act and will appear as
Clauses 12 A & 14 B in the
draft Bill. I am to add
that the Bill, as now revised
will be placed before an
Early meeting of the Legislative
Council.

Yours &c.

(Mass Re Sections 93, 101 and 102. Chitty 8th Ed Volume 2)

List of enclosures,

Copied by

Examined by

GPB—10,000—23-5-08

No 198 dated 8/3/10

(21)

Enclosures
number

Addendum to the ~~draft~~ Bill to
Consolidate and amend the laws
relating to the Courts of Small Causes
~~B.L.C.~~ in Ayone

The following shall be added to ~~Clause~~
14 & 15 to the above Bill published
with Notification No 246-/L.C. dated the
2nd March 1909. in the Gazette issue of the idem
and to the Statement of objects & reasons appe
N.F. &c.

73

Addition to Marshall

14 A. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff; provided that a Plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action."

" 14.B. In all suits where the amount claimed shall exceed one hundred rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court in accordance with rules to be framed in this behalf by the Chief Court;

" When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge, or, -- where there is no such judge present at the place, a magistrate to be deputed by the Magistrate of the District, and two jurors to be elected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the court in which the suit has been filed shall preside at the trial and shall have a casting vote -- whenever the members are equally divided in opinion; and -- judgment shall be delivered according to the opinion of a -- majority of the members of the composite court."

Addition to the Statement of Objects and Reasons.

" The provisions contained in clause 14 A & 14 B relating to hearing and trial of suits by Composite Courts i.e. Courts Composed of Judge and jury are new. And other provisions are based on the English County Courts Act, 18 and on the sections 93, 101 and 102 of the Indian Act."

74

Mr. Compiler, Mysore Gazette, for publication in Part III of the Gazette, giving Kannada & English versions of the proposed amendment. Copies of this may be sent to the Members of the Council.

19/7/20

NOTIFICATION.

No. 198—L. C., dated Bangalore, the 8th March 1910

Addendum to the Bill to consolidate and amend the law relating to the Courts of Small Causes in Mysore

The following shall be added as clauses 14A and 14B to the above Bill published with Notification No. 246—L. C., dated the 3rd March 1909, in the Gazette issue of 4th idem, and to the statement of objects and reasons appended thereto :—

"14A. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff; provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

14B. - In all suits where the amount claimed shall exceed one hundred rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite Court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court; in accordance with rules to be framed in this behalf by the Chief Court.

When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or, where there is no such Judge present at the place, a Magistrate to be deputed by the Magistrate of the district, and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite Court."

Addition to the Statement of Objects and Reasons.

"The provisions contained in clauses 14A and 14B, relating to non-suiting and trial of suits by composite courts, *i. e.*, courts composed of Judges and Jury are new and are based on Sections 93, 101 and 102 of the English County Courts Act, 1888."

By Order,

S. HIRIYANNAIYA,
Secretary, Mysore Legislative Council.

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D. O. No. 704

THE RESIDENT MYSORE

BANGALORE.

5th March 1910.

I am desired to acknowledge, with thanks, the receipt of your D. O. letter No.687, dated the 15th February 1910 regarding Mysore Small Cause Courts Bill.

The proposed constitution of Composite Courts is an interesting experiment and, the Resident ventures to suggest, is deserving of special mention in the Statement of Objects and Reasons.

Yours sincerely,

W. G. Grey Major,

First Asstt. Resident.

T. Ananda Rao, Esq.; B.A.,

Dewan of Mysore.

K.M.

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Letter No Pol 615 dated the 5th January 1911 from the Secretary to Govt, Judicial Dept to the Registrar of the Chief Court

~~DRAFT.~~

Legis 9-09-8. (37)
& Nos

To

The F. A. Resident in Mysore.
Bangalore

Dated Bangalore, 5th ~~December 1910.~~ January 1911.

Sir, Pol: No: 619/Secy 3. & S. No 8

I am directed to address you on the law relating to the Courts of Small -- Causes in Mysore and to state as follows :-

2. The procedure of the Courts exercising small cause jurisdiction in the State is governed by Act XI of 1865 of the Governor-General in Council. This Act was replaced in 1887 in British India by a new Act (The Provincial Small Cause Courts Act) ~~in 1887~~ but in Mysore the old Act of 1865 continues to be in force.

3. The Chief Court are of opinion that the Act of 1865 is unsuited to present conditions and representations have also been made in the Representative Assembly for a more simple and up-to-date enactment on the subject. A Bill was therefore prepared after consultation with the Chief Court and was

placed

placed before the Legislative Council on the 15th August 1910.

4. Though the Bill was modelled on the Provincial Small Cause Courts Act of 1887 of British India, it differed from it in some important particulars.

(1) Act IX of 1887 contains a schedule of 44 clauses, which specifies the suits excluded from the jurisdictions of Courts of -- Small Causes; all other suits of a Civil nature which do not exceed the prescribed limit ~~of value~~ are made cognizable by those Courts.

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The purpose of this classification is, doubtless, to restrict the jurisdiction of Small Cause Courts to petty suits not involving difficult or intricate questions of law or fact. As a matter of fact, however, several of the suits cognizable by such courts under the Indian Act are, it is believed, as difficult as some of those which have been excluded. Thus, actions ~~of~~ for deceit, or negligence, or for money had and received or for compensation for not completing a contract of sale of land, are not excluded from

from the schedule and yet these classes of actions prima facie involve as difficult questions of law and fact as the classes specified in the schedule. Again, a concrete instance may be imagined in which the same set of facts may cause injury to the person and to personal property of the plaintiff; but though the questions of fact and law involved, so far as they relate to the liability of the defendant to pay damages, may be the same in both cases, a Small Cause Court is deemed competent to adjudicate on a suit for compensation in the latter case, but not in the former. Similarly, any action for conversion, say, of a horse or jewel, though sometimes more difficult to decide than an action for libel or malicious prosecution, is made cognizable by a Small Cause Court while the latter is excluded from its jurisdiction.

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A reference to past reports on the administration of Civil Justice in Mysore

(84)

shows that most of the suits filed on the Small Cause side are suits for money lent, for goods supplied, for wages, or for rent. It appeared to the Durbar that all the suits which a Small Cause Court may be empowered to try could easily be grouped under a few general heads and it was therefore decided to adopt a new schedule in place of the one appended to the Indian Act and to enact that suits not so specified in this schedule shall not be entertained by Small Cause Courts.

Power has been received to Govt to add to or vary the schedule according to business may dictate

(ii) Clauses 7 8 ~~14 A & 14 B~~ ~~(After approval Bill)~~

Clause 7 ~~14 A~~ gives a Judge power to nonsuit the plaintiff when the case has not been satisfactorily proved on either side. It is similar to Section 373 of the existing Code of Civil Procedure which gives -- power to allow the plaintiff to withdraw a suit with liberty to file it again. The --

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The difference between this and the proposed provision is that the Court according to ~~this~~ the latter provision may act of its own accord without a request from the Plaintiff whenever it finds, after the case is closed that the evidence on either side is not conclusive and enter a ~~decree~~ judgment of non-suit in such a case the Court. This will not prevent the entertainment of a new suit on the same cause of action provided ~~clause~~, it is not barred by the law of limitation.

57

Clause ~~14 B.~~ 8 This ~~is another novel provision in the Bill~~, it clause provides for the constitution of composite Courts when parties desire to have them, and is adopted from the County Courts Act of England section 100. The provision is no doubt novel so far as India is concerned, but the Durbar consider it well worth a trial.

5 The Bill ~~as thus framed~~ was referred to a Select Committee of the Legislative Council for considera-

(36

consideration and report. The accompanying copy of their report explains ~~the~~ the changes made by the ~~Committee~~ I am to invite in the Bill. ~~Attention is invited~~ to the fact that the provision regarding composite Courts met with the unanimous approval of the members of the Committee as calculated to give greater finality to decisions of Small Cause Courts and inspire greater confidence in the minds of the public in the decisions of those Courts on questions of fact.

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6. The recommendations of the Select Committee were considered and approved by the Legislative Council at the meeting held on the ~~[illegible]~~ November 1910, and I am now to request that the sanction of the Government of India may be obtained early for the Bill as now adopted being passed into law.

With Certain minor changes in clauses 2 & 4 the Bill has been recommended by the Committee

A Copy of the bill as finally adopted is appended herewith for ready reference

I have etc.

Offg.Secy to Government

G.H.V

et 4/1/11

A Bill to consolidate and amend the law relating to Courts of Small Causes in Mysore.

(AS AMENDED BY THE SELECT COMMITTEE.)

N.B.—The portions in square brackets are those omitted and those in italics newly added by the Committee.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

~~CHAPTER I.~~

~~[PRELIMINARY.]~~

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 19 ".

(2) It extends to the whole of Mysore.

(3) It shall come into force on the 1st day of July 19 11

But the provisions of Section 8 shall come into force only in such Courts and from such dates as may be notified by Government in the Official Gazette.

Repeal of Act XI of 1865.

2. (a) *From and after that date, Act XI of 1865 as applied to Mysore by the Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, shall be repealed.*

(b) Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Construction of references to Act XI of 186

Savings

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

~~[(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature; or]~~

~~[c]~~ (*b*) any local or any special law other than the Code of Civil Procedure.

Definition

~~[4. In this Regulation, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Regulation, and includes any person exercising jurisdiction under this Regulation in any such Court.]~~

[CHAPTER II.]

[CONSTITUTION OF COURTS OF SMALL CAUSES.]

[Establisnment of Courts of Small Causes.

[5. (1) The Government may, by order in writing, establish a Court of Small Causes at any place in Mysore.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Government may define, and the Court may be held at such place or places within those limits as the Government may appoint.]

Judge

[6. When a Court of Small Causes has been established, the Government shall, by order in writing, appoint a Judge of the Court.]

Suspension and removal of Judges.

[7. A Judge of a Court of Small Causes may be suspended or removed from office by the Government.]

in the Small Cause Courts Act of British India. We therefore recommend that the schedule as framed in the Bill be adopted by the Council with the few slight alterations noted below :—

Articles 4 and 5.—To make it clear that only suits for money are intended in these enumerations, we have added the words "for money" after "suits" in both these articles.

Article 7.—In the interests of clearness, we have substituted "or" for "and" in the expression "boarding and lodging."

Article 12.—The condition inserted in this article that the "total deposit should not exceed the pecuniary jurisdiction of the Court" is in our opinion unnecessary, as the jurisdiction of the Court has to be determined primarily by what is due at the time of the suit and not by the volume of the transactions that might have taken place before between the parties.

We have added another Schedule showing the changes proposed to be made in the Civil Courts Regulation for reasons set forth in the opening portion of our report. Only a few of them call for remarks here.

Section 3 of the Civil Courts Regulation.—The expression "the Court of Small Causes" has been inserted in this section so that a Small Cause Court may be included within the definition of a Civil Court. The insertion of a similar expression in Section 5 provides for the local jurisdiction of a Court of Small Causes.

The new Section 10A directs that the jurisdiction of a Court of Small Causes in respect of suits triable by it shall be regulated by the law relating to Courts of Small Causes for the time being in force. Appropriate changes have been made in Sections 19 and 21 in respect of the suspension or removal of judges of Civil Courts, and appointments, etc., of ministerial officers of such Courts. The Civil Courts Regulation as thus amended will provide for all the matters contained in clauses 4 to 9 and 18 to 22 of the Bill.

We recommend that the Bill as now amended by us be adopted by the Council with the changes proposed in the Civil Courts Regulation.

H. V. NANJUNDAYYA.
A. RANGASWAMI IYENGAR.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
M. C. RANGIENGAR
D. VENKATRAMAYY

14th November 1910.

I agree to the report subject to the following remarks:—

The condition imposed in clause 12 of the schedule that the total deposit hould not exceed the pecuniary jurisdiction of the Small Cause Court is in my pinion quite necessary.

The suggestion for the omission of the condition on the score that the jurisliction has to be determined primarily by what is due at the time of the suit and ıot by the volume of the transactions that might have taken place between the parties would virtually enable the Small Cause Courts to adjudicate and record indings upon various disputed items of deposits, each of which may be beyond the urisdiction of the Small Cause Court, though the sum-total remaining due at the ime of the suit after withdrawal of portions of deposits may be within the jurisliction of the Court. Hence the provision may remain as it stands.

2. I may also be permitted to remark that notwithstanding the desirable provision as to composite Courts based on the County Courts Act, in this country Rs. 500 would be a fortune to many persons and the maximum limit of the jurisdiction of the Small Cause Courts may therefore, be reduced to Rs. 300.

A. RAMANNA
Member, Mysore Legislative Council

[8. The Government shall allow a Court of Small Causes such establishment of ministerial officers as may be necessary; and subject to any orders made by the Government in this behalf the Judge of a Court of Small Causes may appoint the ministerial officers of the Court and may fine, suspend or dismiss them.]

Ministerial officers.

[9. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Regulation or in any other enactment for the time being in force as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

Duties of ministerial officers.

(2) The Chief Court may make rules, consistent with this Regulation and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.]

[CHAPTER III

[JURISDICTION OF COURTS OF SMALL CAUSES.]

[10.] *4.* All suits of the classes specified in the schedule, *in which no relief is claimed in respect of immovable property and* of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

Cognizance of suits by Courts of Small Causes.

[11.] *5.* Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Exclusive jurisdiction of Courts of Small Causes.

[CHAPTER IV.]

[PRACTICE AND PROCEDURE.]

[12. The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits.]

Application of the Code of Civil Procedure.

[13. When the Judge of a Court of Small Causes is absent, the chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.]

Adjournment of cases by chief ministerial officer.

[14.] *6* (1). Notwithstanding anything in the foregoing portion of this regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

Return of plaints in suits involving questions of title to immovable property.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of [the second paragraph of section 57 of] the Code of Civil Procedure *regarding the return of plaints* and make such order with respect to costs as it

deems just, and the Court shall, for the purposes of the ~~Indian Limitation Act, 1877,~~ *the Mysore Limitation Regulation*, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

~~[14-A]~~ *7.* In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, *subject to such orders as to costs as the Court may in each case think fit*: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

Non-suiting in certain cases.

~~[14-B]~~ *8.* In all suits where the amount claimed shall exceed *fifty*, ~~[one hundred]~~ rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite Court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court, in accordance with rules to be framed in this behalf by the Chief Court.

Trial by composite Court.

When such an application has been made and allowed, the case shall be heard by a Court composed of the Judge of the Court in which the suit has been instituted, another Judge of a Civil Court not superior in rank to such Judge or, where there is no such Judge present at the place, a Magistrate to be deputed by the Magistrate of the District, and two jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge of the Court in which the suit has been filed shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion; and judgment shall be delivered according to the opinion of a majority of the members of the composite Court.

The rules to be framed by the Chief Court under this section shall be subject to the previous sanction of Government.

~~[15.]~~ *9.* Where an order specified in section ~~[588, clause (29),]~~ *104, clause (1) (h),* of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Appeals from certain orders of Courts of Small Causes.

~~16.]~~ *10.* The Chief Court, for the purpose of satisfying itself ~~[that]~~ *as to the correctness, legality or propriety of* a decree or order made in any case decided by a Court of Small Causes ~~[was according to law]~~, may call for the case and pass such order with respect thereto as it thinks fit.

Revision of decrees and orders of Courts of Small Causes.

~~[17.]~~ *11.* Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

finality of decrees and orders.

~~[CHAPTER V.~~

~~SUPPLEMENTAL PROVISIO~~

~~[18. A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the Chief Court, and shall—~~

Subordination of Courts of Small Causes.

~~(a) keep such registers, books and accounts as the Chief Court from time to time prescribes, and~~

~~(b) comply with such requisitions as may be made by the District Court, the Chief Court or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.]~~

~~[19. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government.]~~

Seal.

~~[20. The Government may, by order in writing, abolish a Court of Small Causes.]~~

Abolition of Courts of Small Causes.

[21. (1) Nothing in this Regulation shall be construed to prevent the Government from appointing a person who is a Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

Saving of power to appoint Judge of Court of Small Causes to other office.

(2) When a Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.]

[Application of Regulation to Courts invested with jurisdiction of Court of Small Causes.]

[22. (1) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases by them,

and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this regulation,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.]

[23.] *12.* A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

Application of Regulation and Code to Court so invested as to two Courts.

[Modification of Code as so applied.]

[24.] [Notwithstanding anything in the last two foregoing sections—]

[(*a*)] *Provided that* when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, *it shall not be necessary, unless the Court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution from one Court to another.* [or]

[(*b*) When a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree, unless in any case the Court, by order in writing, requires them to be sent.]

[25.] *13.* (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

Continuance of proceedings of abolished Courts.

(2). Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes. or in any other enactment for the time being in force.

Publication of certain orders. [26. All orders required by this Regulation to be made in writing by the Government shall be published in the official Gazette.]

SCHEDULE I

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES

(See section [10] 4.)

(1) A suit for money lent
(2) A suit for money by or against a surety
(3) A suit for the price of goods sold,
(4) A suit *for money* on a contract for work and labour;
(5) A suit *for money* on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board [and] *or* lodging
(8) A suit for money received by defendant for plaintiff's use
(9) A suit for money paid to defendant by mistake or money overpaid
(10) A suit for money paid or goods delivered at defendant's request
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited [when the total deposit does not exceed the pecuniary jurisdiction of the Court];
13) A suit for recovery of specific movable property pledged or deposited with the defendant, or its value.

SCHEDULE II.

Amendment of the Mysore Civil Courts Regulation, I of 1883

Section 3.—The word "four" shall be substituted for the word "three" and the words "4thly, the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff."

Section 4 (a).—The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs."

Section 5.—The words "or of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 10A.—After Section 10, the following new section shall be added, namely:—

"10 A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in Mysore."

Section 19.—The conjunction "or" occurring after the words "Subordinate Judge," shall be omitted and the words "or a Judge of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 21.—The word "and" occurring before the word "Munsiffs," shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.

Legis 9 [illegible]-10 Serial 9 J219 Pol. 1457

Letter No. 1295 dated the 28th February 1911 D 1-3-11.

FROM

P. B. WARBURTON, ESQ., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 28th February 191/

SIR,

I am directed to acknowledge the receipt of Mr. Balaadaram Iyer's letter No.619-Pol., dated the 5th/7th --- January 1911, forwarding, for the sanction of the Government of India, a draft Bill which the Durbar propose to enact to consolidate and amend the law relating to Courts of Small Causes in Mysore.

2. In reply, I am to state that the Governor General in Council has accorded his consent to the draft Bill on the understanding that he retains over it the power and authority which vests in him by virtue of Article 19 of the Instrument of Transfer.

I have the honour to be,
Sir,
Your most obedient servant,

K.M. First Assistant Resident

R. P. B.—21-1-1911.—2,000.

D.O. No. 721

BANGALORE.

28th February 1911

My dear Warburton,

You will observe from Mr. Warburton's official letter No. 295 of today's date, that the Governor General in Council has accorded his consent to the draft Bill which the Durbar propose to enact to -- consolidate and amend the law relating to Courts o Small Causes in Mysore.

2. I would, however, mention, for the information of the Durbar, that it has been suggested that the provisions as to "Composite Courts" in Section 8 of the draft Bill are extremely complicated when the value of the subject matter of the suit is considered, and indicate some misapprehension of the proper functions of a jury. Though Section 100 of the County Courts Act of England, 1888, is quoted as the authority for the establishment of this Court, the provisions of that Act do not appear to justify the Court which the Durbar propose

in the draft Bill. The English Act provides for trials in certain cases with the aid of juries to determine questions of fact only, while the provisions of the proposed Regulation provide for the two "jurors" being judges of law as well as of fact a procedure which seems to be anomalous.

To

T. Ananda Row, Esq., C.I.E.,

Dewan of Mysore.

K.M.
25.2.11.

G.R.S. 28.]

45

Legis. File No. 16-09

Serial No. 11

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

(Legis)

~~KEAI~~

the 19

ate of issue 20-6-11

d by Sri S Hariyannaiya

ORDER ~~THEREON~~.—No. J 3462/Legis 9-09.

Ordered that the Bill to

10

Consolidate and amend the law relating to Courts of Small Causes in Mysore, which receive the assent of His Highness

over

SUBJECT.

GPB—10,000—19-4-10

REGULATION No. VIII OF 1911.

(Received the assent of His Highness the Maharaja on the 19th day of June 1911.)

A Regulation to consolidate and amend the law relating to Courts of Small Causes in Mysore.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Small Cause Courts Regulation, 1911."

(2) It extends to the whole of Mysore

(3) It shall come into force on the 1st day of July 1911.

But the provisions of Section 8 shall come into force only in such Courts and from such dates as may be notified by Government in the official Gazette.

Repeal of Act XI of 1865.

(*a*) From and after that date, Act XI of 1865 as applied to Mysore by the Notification of the Government of India in the Foreign Department, No. 31—I. J., dated the 28th January 1880, shall be repealed.

Amendment of the Mysore Civil Courts Regulation.

(*b*) The enactment referred to in Schedule II is amended to the extent specified therein.

Construction of references to Act XI of 1865.

(*c*) Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Savings.

3. Nothing in this Regulation shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Regulation; or

(*b*) any local or any special law other than the Code of Civil Procedure.

Cognizance of suits by Courts of Small Causes.

4. All suits of the classes specified in Schedule I in which no relief is claimed in respect of immovable property and of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable. Provided that the Government may at any time add to or vary the schedule by a notification published in the official Gazette.

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Exclusive jurisdiction of Courts of Small Causes.

5. Save as expressly provided by this Regulation or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Return of plaints in suits involving questions of title to immovable property.

6. (1) Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the Code of Civil Procedure regarding the return of plaints and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Mysore Limitation Regulation, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Non-suits in certain cases.

7. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, subject to such orders as to costs as the Court may in each case think fit: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

Trial by composite Court.

8. In all suits where the amount claimed shall exceed fifty rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite Court, on his depositing such costs and furnishing such security, and giving such notice as may be determined by the Court, in accordance with rules to be framed in this behalf by the Chief Court.

Where such an application has been made and allowed, the case shall be heard by a Court composed of the Judge before whom the suit has been instituted and three jurors to be selected in accordance with rules to be framed in this behalf by the Chief Court.

The Judge shall settle what are the questions of law and what the questions of fact arising in the case, and he shall have the sole power to decide the questions of law. He shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion, and judgment shall be delivered in accordance with the opinion of the majority of the members of the composite Court on all questions of fact.

The rules to be framed by the Chief Court under this section shall be subject to the previous sanction of Government.

Appeals from certain orders of Courts of Small Causes.

9. Where an order specified in section 104, clause (1) (*h*), of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

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Revision of decrees and orders of Courts of Small Causes.

10. The Chief Court, for the purpose of satisfying itself as to the correctness, legality or propriety of a decree or order made in any case decided by a Court of Small Causes, may call for the case and pass such order with respect thereto as it thinks fit.

Finality of decrees and orders.

11. Save as provided by this Regulation, a decree or order made under the foregoing provisions of this Regulation by a Court of Small Causes shall be final.

Application of Regulation and Code to Court invested with jurisdiction of a Court of Small Causes as to two Courts.

12. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Regulation and the Code of Civil Procedure, be deemed to be different Courts.

Provided that when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, it shall not be necessary, unless the Court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution from one Court to another.

Continuance of proceeding of abolished Courts.

13. (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

SCHEDULE

Suits cognizable by Courts of Small Causes.

(See section 4.)

(1) A suit for money lent;
(2) A suit for money by or against a surety;
(3) A suit for the price of goods sold;
(4) A suit for money on a contract for work and labour;
(5) A suit for money on a contract of hiring and service;
(6) A suit for rent when there is an express agreement to pay;
(7) A suit for payment for board or lodging
(8) A suit for money received by defendant for plaintiff's use;
(9) A suit for money paid to defendant by mistake or money overpaid;
10) A suit for money paid or goods delivered at defendant's request;
(11) A suit for damages for breach of a contract of sale of goods;
(12) A suit for money deposited;
(13) A suit for recovery of specific movable property pledged or deposited with the defendant, or its value

SCHEDULE II.

AMENDMENT OF THE MYSORE CIVIL COURTS REGULATION, I OF 1883.

Section 3.—The word "four" shall be substituted for the word "three" and the words "4thly the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff."

ion 4 (*a*).—The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs."

ection 5—The words "or of a Court of Small Causes" shall be inserted after the word) "Munsiff."

ection 10A.—After Section 10, the following new section shall be added, namely:—

"10A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in Mysore.'

ection 19.—The conjunction "or" occurring after the words "Subordinate Judge," shall be omitted and the words "or a Judge of a Court of Small Causes," shall be inserted after the word "Munsiff."

ection 21.—The word "and" occurring before the word "Munsiffs," shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.

T. ANANDA ROW,
Dewan.

G.R.S. 26]

Legis File No. 9-1
Serial No. 212

Diary No. of letter replied to

Letter Bk. No. 11 dated the 4th
from the Secretary to Govt. Essential Services Dept.

General and Revenue Secretariat
( )
, *the* 19 .

To

The F. A. Resident in Mysore
Bangalore

Date of issue 4-7-1911

Sir

Signed by

I am directed to forward
herewith a copy of Regulation
VIII of 1911, a Regulation to
consolidate and amend the
law relating to Courts of
Small Causes in Mysore
with 9 spare copies and
to request that a copy may
as usual be forwarded to His
Highness the Nizam's Govt.

I am &c.

for Secy to Govt

Sir
Dear

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SUBJECT.

CW (11)
1-7-11

Mr Bulapindasappa